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PRUDENTIAL INSURANCE COMPANY OF AMERICA

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 JOSEPHINE T. HEARTWELL,

12 Plaintiff,

13 v.

14 PRUDENTIAL INSURANCE COMPANY
OF AMERICA, and DOES 1 to 20,

15 Defendants.

) Case No.: 10-cv-04751-CW

)
) **STIPULATION FOR DISMISSAL OF**
) **ACTION PURSUANT TO F.R.C.P.**
) **41(a)(1)(A)(ii)**

) State Court Action Filed: September 20, 2010
) Removal Filed: October 20, 2010

16
17
18 THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA,

19 Third Party Plaintiff,

20 v.

21 GEORGE E. HEARTWELL, SR.,

22 Third Party Defendant.

) [F.R.C.P. 26(f); Civ. L.R. 16-9(a)]

IT IS HEREBY STIPULATED by and between the parties to this action, through their designated counsel if represented, that the above-referenced action be and hereby is dismissed with prejudice pursuant to Federal Rules of Civil Procedure 41(a)(1). The parties have reached a settlement outside of court proceedings and believe the settlement is in the best interests of all parties involved in this action. Plaintiff Josephine Heartwell and Third-Party Defendant George Heartwell, Sr. shall bear their own attorneys' fees and costs incurred in connection with the dispute over the Death Benefit and/or the Plan, including through the negotiation and execution of the settlement agreement; upon consent of all parties, Prudential's attorneys' fees have been deducted from the Death Benefit at issue.

DATED: May 12, 2011

PLAINTIFF

By: 

Josephine Heartwell, *pro se*
PLAINTIFF

DATED: May 16, 2011

BROWN LAW GROUP

By: 

Janice P. Brown, Esq.
Stacy L. Fode, Esq.
Attorneys for Defendant and Third-Party
Plaintiff PRUDENTIAL INSURANCE
COMPANY OF AMERICA

DATED: May __, 2011

THORKELSON LAW

By: _____

Anne E. Thorkelson, Esq.
Attorney for Third-Party Defendant
GEORGE HEARTWELL, SR.

1 IT IS HEREBY STIPULATED by and between the parties to this action, through their
2 designated counsel if represented, that the above-referenced action be and hereby is dismissed
3 with prejudice pursuant to Federal Rules of Civil Procedure 41(a)(1). The parties have reached
4 a settlement outside of court proceedings and believe the settlement is in the best interests of all
5 parties involved in this action.

6 DATED: May __, 2011

PLAINTIFF

7
8
9 By: _____
Josephine Heartwell, *pro se*
10 PLAINTIFF

11
12 DATED: May __, 2011

BROWN LAW GROUP

13
14
15 By: _____
Janice P. Brown, Esq.
16 Stacy L. Fode, Esq.
Attorneys for Defendant and Third-Party
17 Plaintiff PRUDENTIAL INSURANCE
COMPANY OF AMERICA

18
19
20 DATED: May 13, 2011

THORKELSON LAW

21
22 By: Anne E. Thorkelson
Anne E. Thorkelson, Esq.
23 Attorney for Third-Party Defendant
GEORGE HEARTWELL, SR.



PROOF OF SERVICE

Josephine T. Heartwell v. Prudential Insurance Company of America
USDC – North District Case No.: 4:10-cv-04751-CW

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action; my business address is 600 B Street, Suite 1650, San Diego, California 92101.

On *June 6, 2011*, I served the foregoing document(s) described as:

**STIPULATION FOR DISMISSAL OF ACTION
PURSUANT TO F.R.C.P. 41(a)(1)(A)(ii)**

on all interested parties in this action in the following manner as set forth below:

(X) **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)**: Pursuant to controlling General Order(s) and Federal Rules Of Civil Procedure (“F.R.Civ.P.”), the foregoing document will be served by the court via CM/ECF and hyperlink to the document. On *June 6, 2011* I checked the CM/ECF docket for this civil action and determined that the following person(s) are on the *Electronic Mail Notice List* to receive CM.ECF transmission at the email address(es) indicated below:

- Peter Schwartz, Esq. - Peter-jrd@pacbell.net
- Anne E. Thorkelson, Esq. - Email: thorkelsonlaw@gmail.com

(X) **TO BE SERVED BY U.S. MAIL OR OVERNIGHT MAIL (indicate method for each person or entity served)**: On *June 6, 2011*, I served the following person(s) and/or entity(ies) at the last known address(es) in this civil action by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. *Listing the Judge here constitutes a declaration that mailing to the Judge will be completed no later than twenty-four (24) hours after the document is filed*:

Service information continued on the “Service List” attached

() **TO BE SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served):** Pursuant to F.R.Civ.P. 5 on **June 6, 2011**, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. *Listing the Judge here constitutes a declaration that personal delivery on the Judge will be completed no later than twenty-four (24) hours after the document is filed:*

Service information continued on the "Service List" attached

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed **June 6, 2011** at San Diego, California.



Suzanne Marx - Declarant

U.S. MAIL and/or EMAIL SERVICE LIST

<p>Hon. Donna M. Ryu Magistrate Judge – Courtroom 4 U.S. DISTRICT COURT Northern District of California 1301 Clay Street Oakland, California 94612 Email: DMRpo@cand.uscourts.gov (.pdf follow-up: DMRpdf@cand.uscourts.gov)</p>	<p><i>Chambers / Courtesy Copy</i> – Via Overnight Mail</p>
<p>Josephine T. Heartwell 15024 Costella Street San Leandro, California 94579 Telephone: Unknown Facsimile: Unknown Email: jheartwell@yahoo.com</p>	<p>Plaintiff, <i>Josephine T. Heartwell, In Pro Se</i> – Via U.S. Mail <u>ONLY</u></p>
<p>George E. Heartwell, Sr. 218 Heuser Avenue Princeton, WV 24740 Telephone: 304.425.8551 Facsimile: Unknown Email: <u>unknown</u></p>	<p>Defendant, <i>George E. Heartwell, Sr., In Pro Se</i> – Via U.S. Mail <u>ONLY</u></p>
<p>Peter Schwarz, Esq. Anne E. Thorkelson, Esq. LAW OFFICES OF PETER SCHWARZ 1390 Market Street, Suite 1204 San Francisco, California 94102 Telephone: 415.673.2283 Facsimile: 415.673.2437 Email: Peter-jrd@pacbell.net thorkelsonlaw@gmail.com</p>	<p>Attorneys for Defendant, <i>George E. Heartwell, Sr.</i> – Via NEF</p>